

1 all that because I was part of the conversation and
2 the decision making to bring Ms. Hogan in. If she
3 had challenge in writing or systems, we have people
4 in the office to help to do the paperwork. It was
5 so we could be on time with the manufacturer and get
6 the money.

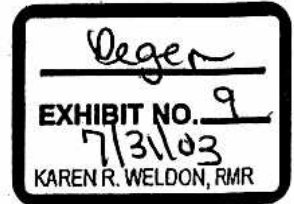
7 In answer to that, I think I was aware of
8 that from Mary first and then from the manufacturer
9 after. Because I would ask Mary, "Where's our
10 money? The manufacturer says they are not getting
11 the paperwork correctly from the director of
12 education."

13 MR. SIGEL: That's all I have.

14 MR. POWERS: Nothing further.

15 (Whereupon the deposition
16 was concluded at 1:09 p.m.)
17
18
19
20
21
22
23
24

EXHIBIT 4



S Y S T E M S G R O U P , I N C .

FEDERAL EXPRESS

August 31, 2001

Cheryl Holiday
Essential Salon Products
375 Hopping Brook Road
Holiston, MA 01746

Re: Jeanie Hogan

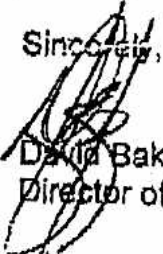
Dear Cheryl,

Enclosed please find a copy of my memo dated June 4, 2001, sent to Jeanie Hogan requesting missing paperwork. Also enclosed, is a copy of the requested documents submitted by Jeanie i.e., detailing reports, salon evaluations and team member evaluations along with a copy of the documents she originally submitted. As you can see, Jeanie falsified these documents by changing the dates.

We view these actions as an unacceptable and intolerable way of conducting business with our Brand Managers. Cheryl, I have sent the same letter to Renee Shakour so that we can immediately make a joint decision on how to resolve this matter. Please call me to schedule a conference call with you, Renee, Andrew and myself.

Thank you in advance for your cooperation.

Sincerely,


David Bakey
Director of Education

7db

enclosures

cc: Andrew Bartfield and Brooke Carlson

EXHIBIT 5

COMMONWEALTH OF MASSACHUSETTS
UNITED STATES DISTRICT COURT

JEANNE DEGEN)

VS.)

C.A. 04CV11024

GOLDWELL OF NEW ENGLAND, INC.)

ORIGINAL

DEPOSITION OF JEANNE DEGEN, taken at the request of the Defendant pursuant to Rule 30 of the Massachusetts Rules of Civil Procedure before Karen R. Weldon, a Notary Public and Registered Merit Reporter in and for the Commonwealth of Massachusetts, on October 13, 2004, commencing at 10:30 A.M. at the offices of Bowditch & Dewey, One International Place, Boston, Massachusetts.

A P P E A R A N C E S:

FOR THE PLAINTIFF:

RODGERS, POWERS & SCHWARTZ, LLP

18 Tremont Street

Boston, Massachusetts 02108

BY: LINDA EVANS, ATTY.

FOR THE DEFENDANT:

BOWDITCH & DEWEY

311 Main Street

Worcester, Massachusetts 01608

BY: JONATHAN R. SIGEL, ESQ.

Also Present: Mary Garneau

BAY STATE REPORTING AGENCY
76 MILL STREET (At Park Avenue)
WORCESTER, MASSACHUSETTS 01603
(508) 753-4121

1 didn't you mean 16 hours per month or four hours
2 per week?

3 A. Correct.

4 Q. And by 16 hours per month or four
5 hours per week, you meant one day a week where
6 you would be driving two hours to Holliston from
7 your house and two hours back from Holliston,
8 correct?

9 A. Correct.

10 Q. From your, by the way, from your
11 home to the Northeast Pain Consultants, that was
12 approximately 40 minutes of round trip driving?

13 A. 10 minutes to and 10 minutes to.
14 About 20 minutes.

15 Q. And where is that located?

16 A. Rochester.

17 Q. Okay. So it's approximately 20
18 minutes round trip from your home in where?

19 A. Barrington. I'm one city over. One
20 town over.

21 Q. And you lived in Barrington at the
22 time, right?

23 A. Yes.

24 Q. And you live in Barrington now

1 Q. Well, let's, before we get to any of
2 that --

3 A. Okay. (Witness reading document.)

4 Q. You have now read what's been marked
5 as Exhibit 7, correct?

6 A. Correct.

7 Q. And this is, for the record, again,
8 the complaint that was filed by your attorney in
9 Middlesex Superior Court in this matter, right?

10 A. Correct.

11 Q. And so my next question is: Are the
12 facts as alleged in this complaint accurate?

13 A. To the best of my knowledge, yes.

14 Q. Is there anything about the
15 substance stated in this complaint that you
16 would change?

17 A. Yes. On page 3, no. 8.

18 MR. SIGEL: Linda, could I see your
19 copy actually?

20 A. Just a small change.

21 Q. Okay.

22 A. It was 2002 that I was in holiday
23 and got in my second car accident, not 2000.

24 Q. So it should be December 2002?

EXHIBIT 6



TO WHOM IT MAY CONCERN
 PO Box 1838
 60 Rochester Hill Road Unit 8
 Rochester, NH 03586-1838
 Telephone: (603) 335-5600
 Fax: (603) 885-5400
 ABTEGHK HAOGBIAN, MD
 DEA #BH 4814027
 JAMES GUBEDDU, PA-C, MHP
 DEA #MC 0038289
 MANUEL SANCHEZ, MD
 DEA #BS 1862211

JAN SLEZAK, MD
 DEA #BS 4240889

NORTHEAST PAIN CONSULTANTS

Name Jeane Hogan Date 10-9-01
 Address _____

Patient has been seen and evaluated/treated at our pain center since 1-5-01. She is capable of resuming her regular schedule, but to take her out of her Friday therapy and add 16 hours private of driving would not be advisable at this time.

☐ Carabin OK

☐ Label

Refill - 3 - 1 - 2 - 3 - 4 - PRN

Jan Slezak M.D.

Placem

Send copies TO: (All 3 Pages)

CC: Sheryl Holladay

John Fowles

508-929-3049

Mary Garneau

5've copied Renee Shakum

EXHIBIT 7



Northeast Pain Consultants

A Comprehensive Pain Treatment Center



New Hampshire

Rochester October 17, 2001

Exeter

Gilford

Laconia

Massachusetts

Boston

TO: MARY Garneau
CC: S. Hulse Hollady
CC: JOHN Foundas

To Whom It May Concern:

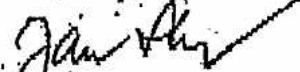
Jeanne Hogan has been a client at the Northeast Pain Clinic since January 5, 2001. She is still currently receiving weekly therapy approximately 30 minutes per session. I have made an exception for Jeanne to do her Fridays due to her schedule of being off the road and in her home office (I normally do not do acupuncture on Fridays).

There are no restrictions for Jeanne and she is fully functional. Jeanne would like to comply with her company's wishes concerning her work schedule on Fridays. However, to take her away from her weekly therapy and add another day of driving (approximately per day 4 hours) to her schedule would not be advisable at this time.

Although Jeanne has no restrictions and is fully functional, long periods of driving at a time aggravates her condition causing her neck and her back to be stiff and very uncomfortable. I would advise only in necessary situations should Jeanne add a 5th day a week of driving instead of 4 days a week to her schedule.

Three consecutive days off the road seem to give her the time needed to recuperate which is necessary at this time.

Sincerely,


Jan Slezak, MD

Rochester Professional Park • 60 Rochester Hill Road, Unit 6 • Rochester, NH 03867

P. O. Box 1838 • Rochester, NH 03866-1838

Phone (603) 335-5600 • Fax (603) 335-5400 • Email: NPC@northeastpain.com

EXHIBIT 8

GOLDWELL OF NEW ENGLAND, INC.

EMPLOYEE REQUEST FOR FAMILY OR MEDICAL LEAVE

Note: Please submit this form to Human Resources Department at least 30 days before Family and Medical Leave ("FMLA") will commence, unless the leave is unforeseeable.

From: Jeanne Degeu Hogan

Date: 11-26-01

I request FMLA leave for the following reason:

- ☐ The birth of my child and in order to care for that child
Expected date of birth: ____/____/____
- ☐ The placement of a child with me for adoption or foster care
Expected date of placement: ____/____/____
- ☐ The need to care for my child, spouse or parent who has a serious health condition
- ☐ My own serious health condition that renders me unable to perform my job

Expected duration of leave: From NA through ____/____/____

Are these dates firm? ____ or subject to change? ____

If subject to change, please explain:

will not be long term but

reduced schedule

Reduced Schedule -
4 day week
Due to car accident
while working "99"

Type of FMLA Leave schedule requested:

- ☐ Full Time
- ☒ Intermittent or reduced FMLA Leave (allowed only if medically necessary).

NOTE: YOU WILL RECEIVE A WRITTEN RESPONSE TO THIS REQUEST.

EXHIBIT 9

Appendix B to Part 825 — Certification of Health Care Provider (Optional Form version)

Certification of Health
Care Provider
(Family and Medical Leave Act of 1993)

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division



1. Employee's Name

Jeanne Degen-Hogan

2. Patient's Name (if different from employee)

3. The attached sheet describes what is meant by a "serious health condition" under the Family and Medical Leave Act. Does the patient's condition¹ qualify under any of the categories described? If so, please check the applicable category.

(1) — (2) — (3) — (4) / (5) — (6) — , or None of the above —

4. Describe the medical facts which support your certification, including a brief statement as to how the medical facts meet the criteria of one of these categories:

- degenerative cervical disc disease - as documented by M.R.
- Clinical findings including decreased range of motion, presence of taut bands in cervical muscles, and positive neurological findings (see notes)

5.a. State the approximate date the condition commenced, and the probable duration of the condition (and also the probable duration of the patient's present incapacity² if different):

since 6-15-1999 - (cause: car accident
neck and lower back injury)

b. Will it be necessary for the employee to take work only intermittently or to work on a less than full schedule as a result of the condition (including for treatment described in item 6 below)?

4 day work week

If yes, give the probable duration:

Indefinitely

c. If the condition is a chronic condition (condition #4) or pregnancy, state whether the patient is presently incapacitated² and the likely duration and frequency of episodes of incapacity²:

as above

6.a. If additional treatments will be required for the condition, provide an estimate of the probable number of such treatments:

undetermined - requiring treatment on weekly to biweekly basis.

If the patient will be absent from work or other daily activities because of treatment on an intermittent or part-time basis, also provide an estimate of the probable number and interval between such treatments, actual or estimated dates of treatment if known, and period required for recovery if any:

b. If any of these treatments will be provided by another provider of health services (e.g., physical therapist), please state the nature of the treatments:

Acupuncture, massage therapy, psychotherapy
neurological evaluation and treatment as needed.

¹ Here and elsewhere on this form, the information sought relates only to the condition for which the employee is taking FMLA leave.

² "Incapacity," for purposes of FMLA, is defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment thereof, or recovery therefrom.

c. If a regimen of continuing treatment by the patient is required under your supervision, provide a general description of such regimen (e.g., prescription drugs, physical therapy requiring special equipment):

Same as 66

7.a. If medical leave is required for the employee's absence from work because of the employee's own condition (including absences due to pregnancy or a chronic condition), is the employee unable to perform work of any kind? _____

b. If able to perform some work, is the employee unable to perform any one or more of the essential functions of the employee's job (the employee or the employer should supply you with information about the essential job functions)? _____. If yes, please list the essential functions the employee is unable to perform:

Limit driving to 4 days/week

c. If neither a. nor b. applies, is it necessary for the employee to be absent from work for treatment? _____

8.a. If leave is required to care for a family member of the employee with a serious health condition, does the patient require assistance for basic medical or personal needs or safety, or for transportation? _____

N/A

b. If no, would the employee's presence to provide psychological comfort be beneficial to the patient or assist in the patient's recovery? _____

c. If the patient will need care only intermittently or on a part-time basis, please indicate the probable duration of this need: _____


(Signature of Health Care Provider)

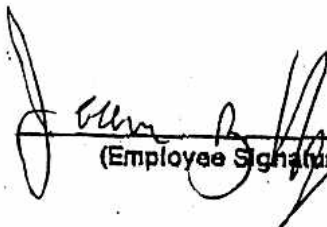
Pain management practice
(Type of Practice)

66 Rochester Hill Rd
Rochester, NH 03867
(Address)

603-335-5600
(Telephone number)

To be completed by the employee needing family leave to care for a family member:

State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule:


(Employee Signature)

11-30-01
(Date)

EXHIBIT 10

Essential Salon Products, Inc.

GOLDWELL
Professional Haircare

Distributor of...
Goldwell ~ ARTec
Therapro ~ Bio Ionic ~ Dermanew
VIA ~ BaByliss ~ Jilbere ~ Forfex ~ Riva



December 6, 2001

Jeanne Hogan
27 Mallego Rd
Barrington, NH 03825

Dear Ms. Hogan:

We are in receipt of your certification of Health Care Provider form.


Pursuant to the FMLA we would like you to obtain a second opinion. We are requesting you to book an appointment with Dr. Alan Solomon, 36 W. Central St. Franklin, Ma. (508)528-4200. He should complete the Health Care Provider form.

Pending our receipt of the Health Care Provider form enclosed herein, you are provisionally entitled to take the requested FMLA intermittent leave.

You are required to return this form within 30 calendar days of this notification. Failure to provide the certification in a timely manner will result in a denial of FMLA leave.

Please notify this office if you elect to use the FMLA leave option at this time.

Very truly yours,


Mary M. Garneau
Controller



12-7-01

EXHIBIT 11

Jeanne Hogan
Written Warning



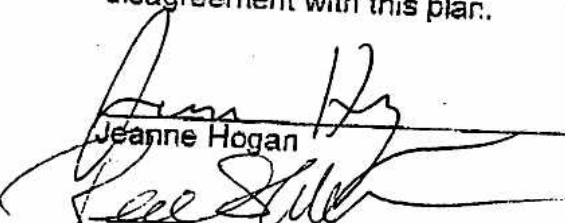
We have been speaking with you recently in regards to the problem with the paperwork that you are required to complete. It has been turned in incomplete and inconclusive. Work performance of this quality is not acceptable and we must immediately see improvement. Effective immediately, all paperwork must be completely filled out legibly and submitted in a timely manner to Mary Gameau.

As you are also aware, there is another issue that we have been having with you and your job duties. In accordance with recent conversations you have had with Goldwell and Renee Shakour, you have stated that Fridays are your "office" day, however you have not been spending it in the office, you have been working out of your home. It has not proven to be the best use of your time due to the fact that the paperwork you are doing on Fridays has not been done accurately. You have stated, in writing, the other duties that you perform on Fridays and these duties can easily be done out of the Goldwell office.

As much as we understand the convenience of working out of your home for a day, we feel it is more beneficial for both parties to see you in the office. Effective immediately, you are to spend two Fridays a month in the Goldwell office. The Fridays are to coincide with the due date of paperwork to ARTec and to be pre-scheduled. All other Fridays you are to be out in the field detailing with the Sales Consultants.

Improvement in all of the above noted areas must occur immediately and must be maintained. If any additional problems occur, disciplinary action may include separation from the company without the issuance of another written warning.

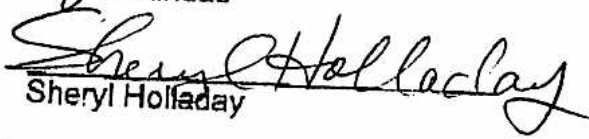
Your signature acknowledges this discussion. It does not indicate agreement or disagreement with this plan.


Jeanne Hogan


Renee Shakour


Jon Shakour


John Foundas


Sheryl Holladay

10-22-01
Date

Date

Date

Date

10-22-01
Date